

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF ADMINISTRATION

In the Matter of the Appeal of the
Determination of the Responsible
Authority for the City of La Crescent
that Certain Data Concerning Keith
Garrett are Accurate and/or Complete.

ORDER

By a written Motion filed on April 29, 1996, the City of La Crescent seeks an Order Dismissing the above matter on jurisdictional grounds. The Petitioner, Mr. Garrett, filed a written reply to the Motion on May 2, 1996.

William Von Arx, City Attorney for the City of La Crescent, 274 South Kingston Street, P.O. Box 229, Caledonia, Minnesota 55921, and Kent Sulem, Esq., League of Minnesota Cities, 145 University Avenue West, St. Paul, Minnesota 55103-2044, represented the City of La Crescent. Keith W. Garrett, 514 McIntosh Road, La Crescent, Minnesota 55947, represented himself.

Based upon the submissions by the parties and all of the filings in this case and for the reasons set out in the memorandum which follows,

IT IS HEREBY ORDERED that the City's Motion to Dismiss is denied.

Dated this 2nd day of May, 1996.

GEORGE A. BECK
Administrative Law Judge

MEMORANDUM

The City of La Crescent has filed a Motion arguing that Mr. Garrett does not have a cause of action under Minn. Stat. §13.04, subd. 4. because he is not the subject of the data in question. The document in issue is the official minutes of a public hearing held in the City of La Crescent on June 20, 1994. (Ex. A). The minutes paraphrased comments made by Mr. Garrett concerning safety issues related to a

comprehensive park plan for the city. Mr. Garrett contends that the minutes concerning his remarks are inaccurate or incomplete.

Under Minn. Stat. §13.04, subd. 4. an individual subject of data stored by a public agency is granted the right to contest the accuracy or completeness of that data. The matter is heard as a contested case under Chapter 14 of the Minnesota Statutes. The Data Practices Act defines “data on individuals” as follows:

‘Data on individuals’ means all government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual.

Minn. Stat. §13.02, subd. 5.

The City argues that under this definition the minutes in question are not data on individuals since the subject matter of the minutes is a comprehensive park plan and the comment by Mr. Garrett is only incidental to the subject matter of the proceeding.

In his written response to the Motion, Mr. Garrett argues that his comments were not incidental but were a primary factor in concluding the discussion of the comprehensive park plan and the presentation of the resolution which was adopted. He argues that a majority of the discussion during the meeting was in reference to questions presented to the City Council by himself and Mr. Kolsch. Although the City argues that the data concerning Mr. Garrett is not accessed by his name, but rather as a part of the City Council minutes, Mr. Garrett points out that the use of his name in the minutes which is a public document and is published in the local newspaper makes that data accessed by his name within the meaning of the statute. He argues that to interpret the matter otherwise would provide no remedy for a citizen whose remarks are misquoted in City Council minutes.

In order for the City to prevail in its Motion it must clearly demonstrate that the appearance of Mr. Garrett’s name is only incidental to the data and the City must show that the data is not accessed by Mr. Garrett’s name. The City has failed to meet this burden. First, it would not be appropriate to classify the stating of Mr. Garrett’s name, as well as the paraphrase of his comments, as incidental. As he points out, his remarks were an important factor in the discussion of the plan and his concerns were the subject of a majority of the discussion during the meeting. Incidental is usually defined as “of a minor, casual, or subordinate nature”. American Heritage Dictionary (Second College Edition, 1982). The discussion related to Mr. Garrett’s concerns was not clearly a minor part of the meeting.

Secondly, the City has not clearly demonstrated that the data is not accessed by Mr. Garrett’s name since the document in which they appear is a publicly available set of minutes of a City Council meeting which was published in the legal newspaper. In

other words, this is not a document kept at City Hall which would normally only be accessible by someone visiting City Hall and asking for information on a particular person. To the contrary, it is a document which is contemplated to be circulated in the community with attention paid to the remarks attributed to individuals. In this context it is not surprising that a citizen who feels he was misquoted would be concerned about the accuracy of the data.

Accordingly, it is concluded that the data in question is "data on individuals" in that it is government data in which an individual can be identified as the subject of that data and does not fall within the exception in the definition. The City's Motion to Dismiss must therefore be denied since Mr. Garrett has standing under Minn. Stat. §13.04, subd. 4 to make an appeal and the Commissioner of Administration has jurisdiction to rule on that appeal.

As a part of its Motion the City argued that the first three allegations set out by Mr. Garrett in his request for a hearing, namely that the City failed to respond appropriately, that the City did not answer questions submitted by Mr. Garrett, and that significant information contained in material submitted prior to the June 20, 1994 hearing was not included in the minutes, are irrelevant to this contested case proceeding. The City's point is well taken. The subject of this contested case proceeding is whether or not data is accurate and complete but it does not extend to the propriety of actions by the City. A possible outcome of this contested case proceeding would be that the language of the minutes would either be changed or material might be added in order to render the document accurate and complete. It must be kept in mind, of course, that City Council minutes are not a verbatim transcription. In light of this, it is recommended that the parties participate in a telephone conference with a mediator in order to arrive at a settlement of this matter without further expenditure of public money. It is suggested that the settlement discussions focus on the answer to the Bill of Particulars submitted by Mr. Garrett along with the contents of this Order and Memorandum. It appears that the parties should be able to agree on the specific changes in the minutes to avoid the hearing.